



[6560-50-P]

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2018-0221, FRL-9978-81-Region 9]

Approval and Promulgation of Air Quality Implementation Plans; Nevada; Rescission of Regional Haze Federal Implementation Plan for the Reid Gardner Generating Station

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to rescind the Regional Haze Federal Implementation Plan (FIP) that we promulgated on August 23, 2012, to regulate air pollutant emissions from Reid Gardner Generating Station Units 1, 2, and 3 (RGGS), previously located in Clark County, Nevada. The EPA is proposing this action in response to the Nevada Division of Environmental Protection's (NDEP) request dated January 16, 2018. The request seeks rescission of the FIP because RGGS Units 1-3 have been permanently decommissioned and are being dismantled and demolished, as demonstrated by the supporting documentation provided by NDEP.

DATES: Any comments on this proposal must arrive by **[Insert date 45 days after publication in the Federal Register]**. Requests for a public hearing must be received on or before **[Insert date 15 days after date of publication in the Federal Register]**.

ADDRESSES: Submit your comments, identified by Docket ID number EPA-R09-OAR-2018-0221, at <http://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose

disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the Web, cloud, or other file sharing system). For additional submission methods, the EPA's full public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Krishna Viswanathan, EPA Region IX, (520) 999-7880, viswanathan.krishna@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, “we,” “us,” and “our” refer to the EPA.

Table of Contents

- I. Background
- II. Proposed Action
- III. Solicitation of Comments
- IV. Statutory and Executive Order Reviews

I. Background

Congress created a program for protecting visibility in the nation's national parks and wilderness areas in 1977 by adding section 169A to the Clean Air Act (CAA). In the 1990 CAA Amendments, Congress amended the visibility provisions in the CAA to focus attention on the problem of regional haze, which is visibility impairment produced by a multitude of sources and activities located across a broad geographic area.¹ We promulgated the initial Regional Haze Rule (RHR) in 1999, and updated it in 2017. The RHR requires states to develop and implement

¹ See CAA section 169B, 42 U.S.C. 7492.

State Implementation Plans (SIPs) to ensure reasonable progress toward improving visibility in mandatory Class I Federal areas by reducing emissions that cause or contribute to regional haze.² Under the RHR, states are directed to conduct Best Available Retrofit Technology (BART) determinations for BART-eligible sources that may be anticipated to cause or contribute to any visibility impairment in a Class I area.³

On March 26, 2012, we had approved all portions of Nevada's Regional Haze State Implementation Plan ("Nevada RH SIP"), except the BART determination at RGGS for nitrogen oxides (NO_x).⁴ On August 23, 2012, we partially approved and partially disapproved a portion of the Nevada RH SIP.⁵ Specifically, the EPA approved Nevada's selection of a NO_x emissions limit of 0.20 pounds per million British thermal units (lb/MMBtu) as BART for RGGS Units 1 and 2. We disapproved two provisions of Nevada's BART determination for NO_x at RGGS: the NO_x emissions limit for Unit 3 and the compliance method for all three units. As a result, the EPA promulgated a FIP, which replaced the disapproved SIP provisions by establishing a BART emissions limit for NO_x of 0.20 lb/MMBtu at Unit 3, and a 30-day averaging period for compliance on a heat input-weighted basis across all three units ("RGGS RH FIP").⁶

On January 16, 2015, NV Energy, the owner of RGGS, informed NDEP of the retirement of RGGS Units 1-3 as of December 31, 2014, to comply with state law,⁷ and by order of the Nevada Public Utilities Commission.⁸ In March of 2017, RGGS Unit 4, which was not subject to

² See generally 40 CFR 51.308.

³ 40 CFR 51.308(e).

⁴ 77 FR 17334 (March 26, 2012).

⁵ See 77 FR 21896 (April 12, 2012) (proposed rule); 77 FR 50936 (August 23, 2012) (final rule).

⁶ In response to a petition for reconsideration, we later extended the compliance deadline. 78 FR 53033 (August 28, 2013) (codified at 40 CFR 52.1488(f)).

⁷ See Nev. Rev. Stat. section 704.7316(2)(a)(1).

⁸ Letter from Greg Lovato, Administrator, NDEP, to Alexis Strauss, Acting Regional Administrator, EPA Region IX, dated January 16, 2018.

the RGGGS RH FIP because it was not BART-eligible, was also shut down,⁹ and NV Energy began preparations for the permanent decommissioning of RGGGS. On August 17, 2017, NDEP discontinued the Class I (Title V) operating permit for the RGGGS facility (permit number AP49110897.02). On January 16, 2018, NDEP submitted a request to us asking that we rescind the RGGGS FIP.¹⁰

Section 307(d) of the CAA applies to the RGGGS FIP rescission; this rulemaking is being conducted in accordance with those provisions.

The proposed action relies on documents, information, and data that are listed in the index on <http://www.regulations.gov> under docket number EPA-R09-OAR-2018-0221. Publicly available docket materials are available electronically at <http://www.regulations.gov>.

II. Proposed Action

Based on our review of the information submitted with the January 16, 2018 letter from NDEP, we are proposing to grant NDEP's request to rescind the RGGGS FIP because Units 1-3 have been permanently decommissioned and are being dismantled and demolished.

III. Solicitation of Comments

The EPA solicits comments on any issues associated with rescinding the RGGGS FIP. In addition, if anyone contacts the EPA by [**Insert date 15 days after publication in the Federal Register**] requesting to speak at a public hearing, the EPA will schedule a public hearing and announce the hearing in the **Federal Register**. Contact Krishna Viswanathan at 520-999-7880 or viswanathan.krishna@epa.gov to request a hearing or to find out if a hearing will be held.

IV. Statutory and Executive Order Reviews

⁹ See Nev. Rev. Stat. section 704.7316(2)(a)(2).

¹⁰ Letter from Greg Lovato, Administrator, NDEP, to Alexis Strauss, Acting Regional Administrator, EPA Region IX, dated January 16, 2018, and attachments.

Additional information about these statutes and Executive Orders can be found at <http://www2.epa.gov/laws-regulations/laws-and-executive-orders>.

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is exempt from review by the Office of Management and Budget (OMB) because it will rescind a rule of particular applicability.

B. Executive Order 13771: Reducing Regulations and Controlling Regulatory Costs

This action is not an Executive Order 13771 regulatory action because rules of particular applicability are exempted under Executive Order 12866.

C. Paperwork Reduction Act (PRA)

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq.

D. Regulatory Flexibility Act (RFA)

I certify that this proposed action will not have a significant economic impact on a substantial number of small entities. This action will not impose any requirements on small entities because the rule merely rescinds a FIP covering a generating station that has been permanently decommissioned and is being dismantled and demolished.

E. Unfunded Mandates Reform Act (UMRA)

This action does not contain an unfunded mandate of \$100 million or more as described in UMRA, 2 U.S.C. 1531-1538, and does not significantly or uniquely affect small governments.

F. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on

the distribution of power and responsibilities among the various levels of government. This action merely rescinds a FIP covering a generating station that has been permanently decommissioned and is being dismantled and demolished.

G. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments

This action does not have tribal implications, as specified in Executive Order 13175. This proposed action will not have a substantial direct effect on one or more Indian tribes, on the relationship between the federal government and Indian tribes, or on the distribution of power and responsibilities between the federal government and Indian tribes. This action merely rescinds a FIP covering a generating station that has been permanently decommissioned and is being dismantled and demolished. Thus, Executive Order 13175 does not apply to this action.

H. Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks

The EPA interprets EO 13045 as applying only to those regulatory actions that concern health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of “covered regulatory action” in section 2-202 of the Executive Order. This action is not subject to Executive Order 13045 because it merely rescinds a FIP covering a generating station that has been permanently decommissioned and is being dismantled and demolished.

I. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211 because it is not a significant regulatory action under Executive Order 12866.

J. National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, the EPA must consider and use “voluntary consensus standards” (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

The EPA believes that VCS are inapplicable to this action. Today’s action does not require the public to perform activities conducive to the use of VCS because it merely rescinds a FIP covering a generating station that has been permanently decommissioned and is being dismantled and demolished.

K. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations

The EPA believes that this proposed rule will not have potential disproportionately high and adverse human health or environmental effects on minority, low-income, or indigenous populations because it does not affect the level of protection provided to human health or the environment. Because this proposed rule merely rescinds a FIP covering a generating station that has been permanently decommissioned and is being dismantled and demolished, this proposal will not cause any emissions increases.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Nitrogen dioxide, incorporation by reference.

AUTHORITY: 42 U.S.C. 7401 et seq.

Dated: May 18, 2018.

Deborah Jordan,
Acting Regional Administrator,
EPA Region IX.

Chapter I, Title 40, of the Code of Federal Regulations is proposed to be amended as follows:

PART 52 – APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401, *et seq.*

Subpart DD – Nevada

2. Section 52.1488 is amended by removing and reserving paragraph (f).

[FR Doc. 2018-11752 Filed: 5/30/2018 8:45 am; Publication Date: 5/31/2018]